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September 1, 2016

VIA ECF & OVERNIGHT MAIL

The Honorable Joseph A. Dickson
United States Magistrate Judge
United States District Court
District of New Jersey
Martin Luther King Building - United States Courthouse
50 Walnut Street
Newark, New Jersey 07101

Re: *Krishanthi, et al. v. Rajaratnam, et al.*
No. 2:09-cv-05395-JLL-JAD

Dear Judge Dickson:

We write on behalf of Defendants in the above-referenced matter to more specifically identify the issues we ask Your Honor to consider at the conference scheduled for Tuesday, September 6, 2016 at 3:30 p.m. In particular, there are two discovery disputes that we have been unable to resolve with counsel for the Plaintiffs and as to which we seek a ruling from the Court:

- Plaintiffs have still failed to provide complete contact information for witnesses located in Sri Lanka. Although this issue has been previously addressed by the Court, Plaintiffs continue to delay and to provide only incomplete information. One recent example is found in Exhibit 1, where Plaintiffs apparently had the email and telephone number of a witness, but only provided it yesterday. We intend to ask the Court to order the disclosure of any and all contact information in the possession, custody, or control of Plaintiffs and their counsel regarding witnesses not represented by counsel; and

- Plaintiffs have refused to provide the identity and contact information for one or more “middlemen” apparently being used by Plaintiffs’ counsel to communicate with potential witnesses, but whom Plaintiffs’ counsel apparently does not control and who is keeping witness information from them. We have repeatedly asked for information regarding such middlemen, but have been rebuked. *See* Plaintiffs’ August 31, 2016 Letter (attached hereto as Exhibit 1). If the middlemen are controlled by Plaintiffs’ counsel, then information in their possession is discoverable and Plaintiffs’ counsel are fully responsible for the refusal to provide it. If the middlemen are not their agents, then we are entitled to know their identities and contact information.

While Plaintiffs contend in their August 23, 2016 letter to the Court that these issues have been mooted by their much belated disclosure of certain limited information, their most recent correspondence underscores the very different views that the parties appear to have regarding the scope of their discovery obligations. *See* Defendants’ August 24, 2016 Letter (attached hereto as Exhibit 2). We are actively working with Plaintiffs in scheduling a trip to Sri Lanka for

GIBBONS P.C.

The Honorable Joseph A. Dickson, U.S.M.J.
September 1, 2016
Page 2

discovery as discussed at our last conference, but the conduct described above is limiting our ability to meaningfully conduct our own investigation in preparation for and during that trip. We seek the Court's guidance on Tuesday in resolving these issues expeditiously.

Respectfully submitted,

s/ Thomas R. Valen

Thomas R. Valen

Enclosures

cc: Joseph J. DePalma
 Michael Elsner
 John M. Eubanks
 William P. Deni, Jr.
 Samidh Guha

EXHIBIT 1



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John M. Eubanks
Licensed in MD & SC
direct: 843.216.9218
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"I will stand for my client's rights.

I am a trial lawyer."

-Ron Motley (1944-2013)

August 31, 2016

VIA ELECTRONIC MAIL

Samidh Guha, Esq.
George Barchini, Esq.
JONES DAY
222 East 41st Street
New York, New York 10017-6702

Thomas Valen, Esq.
William Deni, Esq.
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102-5310

Re: *Krishanthi, et al. v. Rajaratnam, et al.*, No. 2:09-cv-05395-JLL-JAD (D.N.J.)

Dear Counsel:

I write today in response to your letter of August 24, 2016. The following are the responses to your various questions. As a preliminary point, your insistence on using the term "middleman" repeatedly in your correspondence does not somehow convert Plaintiffs' investigators and agents into something other than Plaintiffs' agents.

1. We have attached a revised version of Plaintiffs' Revised Objections and Responses to Defendants' First Set of Interrogatories to Plaintiffs to delete the sentence regarding no documents having been produced to date that appeared in the objections to Interrogatory Nos. 4, 5, and 7-31. Please keep in mind that the Court has given Plaintiffs 20 days following Raj Rajaratnam's deposition to submit complete answers to all contention interrogatories.



Samidh Guha, Esq.
 Sanjay Narayan, Esq.
 Thomas Valen, Esq.
 William Deni, Esq.
 August 31, 2016
 Page 2

2. Interrogatory No. 1 relates to discovery that is not relevant to Phase I discovery – at your insistence to the Court. That you are somehow “at a loss” or that this “information is long overdue” was addressed at the last conference where this information was deemed relevant solely to Phase II discovery if your Phase I motion for summary judgment is unsuccessful. To insist that we provide you with further information at the present time is premature. Furthermore, the witness information is only included in Plaintiffs’ response because these names – and contact information to the extent we are in possession of it – were previously provided to counsel in February under separate correspondence.
3. Consistent with your statement regarding Interrogatory No. 1, the June 14, 2016 conference with Judge Dickson deemed the information sought in Interrogatory No. 3 a Phase II discovery issue. In fact, as Tom Valen stated at the conference with Judge Dickson in direct relation to this specific interrogatory, “given counsel’s representation that they have asked and no one has anything [related to Phase I discovery issues], I think that alleviates the concern and this can become a phase II issue.” June 14, 2016 Tr. at 41:12-41:14. We have taken Defendants at their word on this issue, and we stated we have no objection to this discovery in Phase II. *Id.* at 41:22. Therefore, your statements that this information is “overdue” and pledge to provide updates on a rolling basis being “not an option at this late date” do not coincide with your representations to the Court and as the Discovery Order entered on August 3, 2016 specifically states, “Defendants’ demand for ESI production from Plaintiffs is deferred to Phase II.” See ECF No. 237 at ¶7.
4. Regarding [REDACTED] we have provided you with his address information through correspondence that was first sent via Federal Express on November 25, 2015 and then by e-mail correspondence at your request on January 7, 2016. We can only surmise that in the months since we first provided this information, you have made no effort to reach this witness. Nevertheless, he has given us permission to provide you with his e-mail address and phone number. His e-mail address is [REDACTED] His phone number in [REDACTED]
 [REDACTED]
5. In response to the question of whether we represent [REDACTED] we do not. To our knowledge, he is not represented by counsel. If we determine that we are in error regarding whether he has retained counsel, we will provide that information to you.



Samidh Guha, Esq.

Sanjay Narayan, Esq.

Thomas Valen, Esq.

William Deni, Esq.

August 31, 2016

Page 3

Should you have any questions or concerns regarding this letter, please do not hesitate to contact me directly at (843) 216-9218 or by e-mail at jeubanks@motleyrice.com.

Sincerely,

A handwritten signature in black ink, appearing to read "JME".

John M. Eubanks

cc: Michael Elsner (via e-mail)

Joseph DePalma (via e-mail)

EXHIBIT 2

JONES DAY

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August 24, 2016

VIA EMAIL

Michael Elsner
John Eubanks
Motley Rice
28 Bridgeside Blvd.
Mt. Pleasant, SC 29464

Re: *Krishanthi, et al. v. Rajaratnam, et al.*
No. 2:09-cv-05395-JLL-JAD

Dear Michael and John:

We have received and reviewed *Plaintiffs' Revised Objections and Responses to Defendants' First Set of Interrogatories to Plaintiffs*, dated August 19, 2016. Please review the following questions and provide us with your responses no later than Wednesday, August 31, 2016 in light of the rapidly approaching discovery cut-off in this matter. If you are unable to provide satisfactory responses, we intend to raise these issues with the Court.

1. To virtually every one of the 32 interrogatories posed, you have objected on the grounds that the interrogatories were "premature contention interrogatory seeking to have Plaintiffs provide their theory of the case before such theories have been fully developed" and that "[t]hese are the first discovery requests received in the case, and to date, the Defendants have failed to produce any documents in their possession." We assume this is just mistakenly carried over from the prior version, but it is obviously incorrect, as Defendants have produced voluminous materials in discovery. Please correct your interrogatory responses accordingly.

2. Your response to Interrogatory No. 1 is inappropriate. We are at a loss to understand how you can identify witnesses that presumably are relevant to your allegations but claim that you do not possess contact information for them or provide unhelpful guidance such as "shanty houses near the railway line" in Polhengoda, Kirulapone, Sri Lanka. It seems obvious that you have had contact with these individuals, either directly or through your middleman. This information is long overdue.

3. With respect to your response to Interrogatory No. 3, please explain the delay in providing the information requested. If it is in your possession or that of your middleman, which we strongly suspect is true, your production of this information is overdue. Pledging to provide it on a "rolling basis" is not an option at this late date.

JONES DAY

August 24, 2016

Page 2

4. Please provide us with all information in your possession, including phone numbers and email information, for [REDACTED]

5. Please advise us whether you represent [REDACTED] [REDACTED]. If not, please advise us if he is represented by counsel and provide us with any information regarding his counsel.

Thank you and please do not hesitate to contact us with any questions that you may have.

Sincerely,

/s/ Samidh Guha

Samidh Guha

cc: Joseph J. DePalma
Thomas R. Valen
William P. Deni, Jr.